IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Bail Appl..No. 7043 of 2007(S)

CRIME NO. 1574/07 OF CENTRAL POLICE STATION, ERNAKULAM

PETITIONER: NOT PARTY:

S.D.SAJEEV, SANTHA VILASOM,
PATTANAKKAD P.O., CHERTHALA.

BY ADV. SRI.S.SANTHOSH KUMAR

RESPONDENTS: COMPLAINANT:

THE SUB INSPECTOR OF POLICE, CENTRAL
POLICE STATION, ERNAKULAM, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7043 of 2007

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Dated this the 4th day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner is the 4th accused in the crime. The crime is registered for offences punishable, inter alia, under Sections 420 and 468 I.P.C. Investigation is in progress. Accused 1 to 3 have already been arrested. The petitioner apprehends imminent arrest.

2. One Sunilkumar is the registered owner of the vehicle. He had entered into a hire purchase transaction with the defacto complainant. The said Sunilkumar was unable to meet the obligations under the agreement. He wanted the vehicle to be transferred in the name of accused 1 and 2. He had given prior intimation to the defacto complainant of the proposed transfer. Accused 1 and 2 agreed to take over the liability under the hire purchase agreement and got the vehicle transferred to their name. At this point of time, it is alleged that accused 1 and 2 played fraud on the defacto complainant. Really their names are

Aravinda Babu and Arun @ Venugopal. They pretended to be one Jayakumar and Manoj. They produced false documents to make it appear that they are Jayakumar and Manoj. The obvious allegation is that they wanted to avail finance from the defacto complainant. Later on they will be unavailable and the liability need not be met. False and fake documents, including fake identity cards, were produced by accused 1 and 2 before the financier. After arrest of accused 1 and 2 as also the third accused, who helped them to commit this offence, it is now revealed that the real persons responsible for playing fraud is the petitioner herein/A4 and yet another person referred to as Mayaji in the records. He is the person, who actually advanced the amount to accused 1 and 2 to enter into the transaction and get the vehicle transferred in the fake name. Investigation is in progress.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is absolutely no material on which such wild allegations against the petitioner is founded. In any view of the matter, the petitioner may be granted anticipatory bail. The petitioner shall co-operate with the Investigators.

4. The learned Prosecutor opposes the application. He submits that the petitioner must be made available for interrogation. At this stage, it is not necessary to permit the petitioner to arm himself with an order or anticipatory bail. The sequence of events does point to the complicity of the petitioner. His interrogation is absolutely essential to bring to light the other persons, who also appear to be involved in the case. In any view of the matter, the petitioner may not be granted anticipatory bail, submits the learned Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. I am unable to find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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